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In the Supreme Court of the United States

OCTOBER TERM, 1972

No. 72-1378

CHRISTIAN ECHOES NATIONAL MINISTRY, INC.,
PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINIONS BELOW

The findings of fact and conclusions of law of the district court (Pet. App. 1a–33a) are not officially reported, but are unofficially reported at 28 A.F.T.R. 2d 5934. The opinion of the court of appeals (Pet. App. 40a–55a) is reported at 470 F. 2d 849.

JURISDICTION

The judgment of the court of appeals was entered on December 18, 1972. (Pet. App. 56a.) A petition for rehearing was denied on January 17, 1973. (Pet. App.

57a.) The petition for a writ of certiorari was filed on April 12, 1973. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTIONS PRESENTED

1. Whether petitioner, a nonprofit religious corporation, failed to qualify for tax exemption under Section 501(c)(3) of the Internal Revenue Code of 1954 because a substantial part of its activities consisted of carrying on propaganda, or otherwise attempting to influence legislation, and because it intervened in political campaigns on behalf of candidates for public office.

2. Whether the limitations on political activities in Section 501(c)(3) may constitutionally be applied to deny tax exempt status to a religious organization.

3. Whether the Commissioner, in revoking petitioner's tax exempt status, violated petitioner's rights under the Due Process Clause of the Fifth Amendment.

4. Whether the Commissioner abused his discretion in revoking petitioner's exempt status with retroactive effect.

CONSTITUTIONAL PROVISIONS, STATUTES AND REGULATIONS INVOLVED

The First and Fifth Amendments to the Constitution are set forth in the petition (p. 3). The pertinent provisions of Section 501 of the Internal Revenue Code of 1954 and of Section 1.501(c)(3)-1 of the Treasury Regulations on Income Tax (1954 Code) are set forth in Appendices F and G to the petition. (Pet. App. 58a, 60a–61a.)

STATEMENT

This is a suit for the recovery of F.I.C.A. taxes assessed against and paid by the petitioner, after the petitioner's exemption under Section 501(c)(3) of the Internal Revenue Code was revoked.

Petitioner is a nonprofit religious corporation organized in 1951 under the laws of Oklahoma. Dr. Billy James Hargis, its founder, president and chief spokesman, is an ordained minister, as are some of his assistants. (Pet. App. 41a.)

The "Articles of Faith" in petitioner's bylaws declare that "atheistic world forces seek the destruction and overthrow of all the religions of the World * * * [and] the destruction of all free governments." Dr. Hargis, whose personal views are those of petitioner, has expressed the organization's mission in terms of a battle against Communism, socialism and political liberalism, all of which he considers to be enemies of Christianity. (Pet. App. 5a, 41a–42a.)[1]

In a pamphlet published at the inception of the taxable period in issue, petitioner described itself as "the largest, fasting growing and most active organization in America solely devoted to combating Communism." The same pamphlet stated that "to awaken Americans to their danger" and "to rouse them to action," petitioner was carrying on the following activities: weekly radio broadcasts and television programs; anti-Communist rallies; publication of a monthly anti-Commu-

[1] The scope and implementation of this mission are reflected in some 1,500 documents (publications, radio scripts, etc.) introduced into evidence by the Government.

nist magazine, a weekly "intelligence report," a newspaper column and "hundreds of thousands of pamphlets, leaflets, and broadcast reprints on various aspects of anti-Communist activity"; an annual convention of its followers; distribution of tapes and records of selected broadcasts; and an anti-Communist "Leadership School." These activities, augmented by others such as a "Summer Anti-Communist University" for young people and local Christian Crusade chapters, continued throughout the taxable years. (Pet. App. 42a–43a; Deft. Exs. 177, 182.)[2]

To finance its anti-Communist mission, petitioner frequently appealed for contributions from the public. It earned additional income from the sale of its publications, tapes, and films, and from admission fees at its rallies. A substantial part of this income was devoted to petitioner's use of the mass media. During the years 1961 through 1966, when its gross receipts ranged from about $677,000 to $1,000,000 per year, petitioner spent more than $200,000 per year on radio and television, and its annual expenditures for publications and postage ranged from about $156,000 to $193,000. Expenditures for these purposes constituted 52 percent of petitioner's budget during 1966 and 1967. (Pet. App. 43a; Deft. Exs. 274–279.)

[2] Petitioner states (Pet. 5) that, from the time of its organization, it also conducted Sunday worship services through Dr. Hargis and other pastors. According to one of its publications, however, regular services did not commence until 1966, upon construction of the Christian Crusade Cathedral. (See, *e.g.*, Deft. Ex. 6, May, 1965, p. 7.) The Cathedral was owned by The Church of the Christian Crusade, a separate corporation which has been granted federal tax exemption and which is not involved in this litigation.

In its use of the media during the taxable years, petitioner frequently attempted to influence legislation, primarily by attempting to mold public opinion. As the District Court found (Pet. App. 7a), it supported proposed Constitutional amendments relating to prayer and Bible reading in the public schools. It also opposed pending legislation concerning the jurisdiction of the World Court; denounced proposed legislation providing federal aid to education; opposed repeal of the McCarran-Walter Immigration Act; exhorted its followers to urge their Congressmen to oppose abolition of the House Committee on Un-American Activities and any curtailment of the committee's budget; opposed firearms control legislation; advised followers to urge their Senators to oppose ratification of the Outer Space Treaty; and took stands on a wide variety of other issues, including civil rights legislation, medicare, the Postage Revision Act of 1962, the Honest Election Law of 1967, the nuclear test ban treaty, and the Panama Canal Treaty. (Pet. App. 48a-49a.)[3]

Petitioner also frequently attacked specific political candidates and incumbents and urged the election of more conservative candidates. Thus, while attacking President Kennedy in 1961, petitioner published statements urging its followers to re-elect conservative candidates for Congress, such as Senator Strom Thurmond and Representatives Bruce Alger and Page Belcher. At petitioner's annual convention in 1964, Dr.

[3] These are only a few of many examples. Others are set forth in the opinion of the court of appeals. (Pet. App. 48a-49a.)

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Hargis publicly endorsed Senator Barry Goldwater for the Presidency—an endorsement which, as reported in detail by the press, was relayed to petitioner's followers in one of its publications. At the same time, it urged followers to defeat Senator J. William Fulbright and attacked both President Johnson and Senator Hubert Humphrey. (Pet. App. 50a; Deft. Ex. 145, pp. 13–15.) Similar activities continued through the 1966 Congressional elections and the 1968 Presidential campaign.

In 1953, the Internal Revenue Service ruled that petitioner qualified as a tax exempt religious and educational organization under Section 101(6) of the Internal Revenue Code of 1939, the predecessor of Section 501(c)(3) of the 1954 Code. In 1962 and 1963, however, petitioner's activities and financial affairs were reexamined. Revenue agents in the field recommended no change in its exempt status, but the National Office of the Internal Revenue Service, after reviewing petitioner's radio scripts and publications, recommended that the exemption should be revoked. The District Director in Oklahoma City agreed and mailed a letter of proposed revocation to petitioner on November 13, 1964, advising it of its administrative protest rights. (Pet. App. 43a–44a.)

After the filing of a formal protest and several conferences, the District Director, on September 22, 1966, notified petitioner that its exemption was being revoked on three grounds: (1) It was not operated exclusively for charitable, educational or religious purposes; (2) it had engaged in substantial activity

aimed at influencing legislation; and (3) it had directly and indirectly intervened in political campaigns on behalf of candidates for public office. Deficiencies in the F.I.C.A. taxes here involved were then proposed and, after petitioner's further protests were heard and overruled, the taxes were assessed.[4] Petitioner then paid the disputed amounts and commenced this refund suit, claiming entitlement to tax exempt status under Section 501(c)(3). (Pet. App. 44a.)

Rejecting all three grounds on which petitioner's exempt status had been revoked, the District Court held that petitioner qualified under all the requirements and limitations of Section 501(c)(3), including the limitation that no substantial part of an organization's activities may be devoted to attempts to influence legislation and that no part may consist of intervention in political campaigns. (Pet. App. 29a.) It also concluded, *inter alia*, that petitioner's exemption had been revoked "without constitutionally justifiable cause, in violation of the First Amendment" (Pet. App. 31a), and that the Internal Revenue Service had denied petitioner due process of law under the Fifth Amendment by arbitrarily selecting it from organizations engaged in similar activities and by violating published administrative procedures in the steps leading up to the revocation (Pet. App. 31a).

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[4] Federal Insurance Contribution Act taxes are imposed upon employers by Section 3111 of the 1954 Code, but organizations exempt from income tax under Section 501(c)(3) are similarly exempt from the payment of F.I.C.A. taxes (Section 3121(b)(8)(B)).

Contending that the District Court had held portions of Section 501(c)(3) unconstitutional, the United States took a direct appeal to this Court pursuant to 28 U.S.C. 1252.[5] In a *per curiam* opinion (404 U.S. 561), the Court dismissed the appeal for lack of jurisdiction, vacated the judgment of the district court and remanded for entry of a fresh decree. (Pet. App. 34a–39a.)

On appeal from that decree, the Tenth Circuit reversed on all grounds raised by the government. It held that petitioner's exemption was properly revoked because it had engaged in "substantial and continuous" activities aimed at influencing legislation and had intervened in political campaigns. (Pet. App. 50a.) It also concluded that the Government's application and interpretation of Section 501(c)(3) did not violate petitioner's First or Fifth Amendment rights and that the Commissioner did not abuse his discretion in revoking the exemption with retroactive effect. (Pet. App. 51a–55a.)

ARGUMENT

The decision below is correct. Although some of the questions presented are administratively significant, there is no conflict or any other reason for further review at this time.

1. Section 501(c)(3) of the Internal Revenue Code of 1954 provides in pertinent part that an organiza-

[5] On appeal, the Government did not contend that petitioner was not operated exclusively for religious purposes; it did contend that petitioner was not entitled to exempt status because it engaged in the disqualifying political activities set forth in Section 501(c)(3).

tion shall be exempt from federal income taxation if it is "organized and operated exclusively for religious, charitable * * * or educational purposes," provided that "no substantial part" of its activities consists of "carrying on propaganda, or otherwise attempting to influence legislation," and further provided that it "does not participate in, or intervene in * * * any political campaign on behalf of any candidate for public office." [6]

In holding (Pet. App. 50a) that petitioner was not entitled to tax exempt status under Section 501(c)(3) because it had engaged in "substantial and continuous" activities to influence legislation and had intervened in political campaigns, the court of appeals reached the only conclusion compatible with the uncontroverted facts. The documentary evidence abundantly demonstrates that petitioner's activities centered on the achievement of its anti-Communist goals through the defeat or adoption of legislation and the rise or fall of specific political personalities and public officials. Readers of petitioner's weekly "intelligence report" and monthly anti-Communist magazine were exhorted to communicate with their legislators and urge them to support petitioner's position regarding pending legislation. Other publications, and the

[6] Although many types of organizations are tax exempt, only those described in Section 501(c)(3) qualify to receive tax-deductible contributions for income, estate and gift tax purposes. See Sections 170(c)(2) (income tax), 2055 (a)(2) (estate tax), 2522(a)(2) (gift tax). Many tax exempt organizations are subject to F.I.C.A. taxes under Section 3111 of the 1954 Code, but those which are exempt under Section 501(c)(3) are exempt from these taxes.

message inculcated at rallies and on radio broadcasts, reflect efforts to induce political action at the national and local level. Petitioner's pamphlets and solicitation letters, designed for wide distribution, were concerned with a host of legislative matters, from medicare to the Outer Space Treaty. In short, petitioner's activities—outlined in detail by the court of appeals (Pet. App. 42a–43a, 48a–49a)—were precisely the kind of efforts to promote or defeat the passage of specific legislation by marshalling public opinion which this Court held in *Cammarano* v. *United States*, 358 U.S. 498, 512, could not under a "sharply defined policy" be subsidized by tax advantages. See also *Slee* v. *Commissioner*, 42 F. 2d 184, 185 (C.A. 2).

Petitioner's intervention in political campaigns, although indirect, was similarly pervasive. It engaged in a year-round mass media effort, often in connection with specific campaigns, to oppose all "liberal" candidates and place in their stead candidates with a "conservative" outlook. In practical effect, petitioner's opposition to "liberals" amounted to support for their "conservative" adversaries.

2. Petitioner does not seriously contest the analysis of its activities by the court of appeals. Instead, it argues (Pet. 13–14) that the political limitations in Section 501(c)(3) do not apply if a group is organized and operated exclusively for exempt purposes; more particularly, it contends that if an organization's activities are motivated by sincere religious beliefs, it may not be denied tax exempt status on the ground that the political limitations were transgressed.

If this thesis were sound, however, the political limitations would be virtually nullified. An organization which engaged solely in promoting legislation or candidates for public office would qualify for exempt status if its activities were religiously motivated.

More importantly, petitioner's construction would subvert the settled Congressional policy that exempt organizations which qualify to receive tax-deductible contributions should not be used as vehicles for political action. Doubtless aware that influencing legislation and intervention in political campaigns may be motivated by a sincere desire to further religious or educational objectives, Congress nevertheless provided, in two separate amendments,[7] that involvement in those activities would constitute independent grounds of disqualification for exemption under Section 501(c)(3). *Kuper* v. *Commissioner*, 332 F. 2d 562 (C.A. 3), certiorari denied, 379 U.S. 920; *League of Women Voters* v. *United States*, 180 F. Supp. 379 (Ct. Cl.), certiorari denied, 364 U.S. 822. No case cited by petitioner (or *amici*) has interpreted the statute otherwise.

Indeed, if Section 501(c)(3) were construed to permit circumvention of the political activity limitations, the result would be highly anomalous. In several cases this Court has held that expenses incurred in support of political candidates or specific legislative proposals

[7] The clause in Section 501(c)(3) relating to influencing legislation originated in the Revenue Act of 1934, c. 277, 48 Stat. 680, Sections 23(o)(2) and 106(6). The provision concerning political campaigns was added upon enactment of the Internal Revenue Code of 1954.

are not deductible by a private taxpayer even though incurred in a business context. *Cammarano, supra; McDonald v. Commissioner*, 323 U.S. 57; *Textile Mills Corp. v. Commissioner*, 314 U.S. 326. See also Sections 271 and 276, Internal Revenue Code of 1954. The narrow exception to this rule embodied in Section 162(e) of the Code, enacted in 1962, appears to affirm the results which the Court has reached with respect to the deductibility of other political expenses not described in that provision. If Section 501(c)(3) were interpreted, as petitioner suggests, to allow tax exempt status to organizations which engage in these activities, private taxpayers would be able to circumvent the statutory scheme and the decisions of this Court by deducting their contributions to an exempt organization which would serve as the contributing taxpayer's political spokesman.

Petitioner also errs in suggesting (Pet. 15–16) that the court of appeals construed the phrase "influencing legislation" too broadly, equating it with any expression of opinion on a public issue.[8] Of course, there

[8] Petitioner contends (Pet. 16) that the term "influence legislation" should be construed to embrace only direct communications with legislators. But in *Cammarano* v. *United States*, *supra*, this Court recognized in a related context (358 U.S. at 504–507) that legislation can be promoted or defeated by publicity campaigns directed at the public as well as by direct lobbying. *United States* v. *Rumely*, 345 U.S. 41, cited by petitioner (Pet. 16), is not to the contrary. Although in that case the Court held that efforts to influence public opinion were not encompassed by the phrase "lobbying activities," it also indicated that publicity efforts would constitute other "activities * * * intended to influence * * * legislation." (345 U.S. at 44, 47.)

may be borderline cases in which it is difficult to determine whether an organization's activities fall within the statutory proscription. But the instant case is the extreme situation.[9] Petitioner's actions in regard to proposed legislation have not been casual or sporadic, but a regular and central part of its program, and its positions with respect to broad social issues were properly evaluated by the court of appeals in that context.

For this reason, the fears expressed in the briefs *amicus curiae* with regard to the holding below are unfounded. Churches have and undoubtedly will continue to take public stands on issues, many of which may be politically charged. But such stands, by themselves, do not violate Section 501(c)(3), and the opinion below does not hold to the contrary. Cf. Treasury Regulations on Income Tax (1954 Code), § 1.501(c)(3)-1 (d)(2).

Nor is petitioner's narrowing construction warranted, as it suggests (Pet. 11–14), to save the constitutionality of the political provisos. This Court has indicated that it will not seek a "saving" construction of a federal statute where "[t]he clarity and preciseness

[9] The same reasoning disposes of petitioner's contention (Pet. 15) that the court of appeals erroneously attributed to it the political endorsements of Dr. Hargis. Occasions often will arise where an individual clergyman's personal political endorsements will not jeopardize the exemption of his church. But once again, this is not such a case. Dr. Hargis was petitioner's founder, president and chief spokesman; his views were petitioner's; his endorsements and preferences were headlined in petitioner's publications. In these circumstances, the court properly declined to ignore his intervention on behalf of candidates for public office.

of the provision in question make it impossible to narrow [it] * * * without substantial rewriting." *Aptheker* v. *Secretary of State*, 378 U.S. 500, 515. That is the situation here; the construction proposed by petitioner would virtually delete the political provisos and substantially alter the legislative directive embodied in Section 501(c)(3).

3. Petitioner alternatively contends (Pet. 17–21) that if Section 501(c)(3) is construed to deny tax exempt status to a religious organization because of its political activities, it violates the Religion Clauses of the First Amendment. This argument was properly rejected by the court of appeals.

(a) The political limitations at issue fully satisfy the standards adopted by this Court to determine whether various involvements of government with religion violate the Establishment Clause. The provisos are neutral; they neither bar any particular types of religion from tax exemption nor discriminate on the basis of affiliation or belief. See *Gillette* v. *United States*, 401 U.S. 437, 450–454; *Parker* v. *Commissioner*, 365 F. 2d 792 (C.A. 8), certiorari denied, 385 U.S. 1026. They do not result in "an excessive government entanglement with religion" (*Walz* v. *Tax Commission*, 397 U.S. 664, 674) by requiring administrators and courts to resolve underlying controversies over religious dogma (cf. *Presbyterian Church* v. *Hull Church*, 393 U.S. 440) or to make judgments about the verity of particular religious beliefs (cf. *United States* v. *Ballard*, 322 U.S. 78)).[10] Finally, the primary pur-

[10] Disqualifying a religious organization from tax exempt status because of its political activities may "involve" govern-

pose and effect of the provisos is wholly secular. See, *e.g.*, *Tilton* v. *Richardson*, 403 U.S. 672. They simply deny exempt status to those otherwise eligible entities, both religious and secular, whose common denominator is the pursuit of activities devoted to promoting or defeating legislation or intervention in political campaigns.[11] Indeed, the statute does no more than insure that, like private citizens, exempt organizations, whether religious, educational, or of any other category, shall not look to the Treasury to recoup the cost of political involvement. Cf. *Cammarano* v. *United States*, *supra*.

In no sense do the limitations inhibit the free exercise of petitioner's religion.[12] Petitioner has not dem-

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ment with religion in the sense that the revenue authorities must evaluate the scope of political pursuits in proportion to the totality of a group's activities. That such an evaluation may be difficult, however, "does not render it undue interference with religion * * * for it does not entail judicial inquiry into dogma and belief." *Walz* v. *Tax Commission*, 397 U.S. at 698, n. 1 (concurring opinion of Mr. Justice Harlan).

[11] By contrast, if the provisos did not apply to religious organizations, as petitioner and *amici* propose, serious constitutional questions would be raised. The political interests of churches would be promoted by according tax advantages that generally would not be available to other groups which must fund their political activities with after-tax dollars.

[12] The cases cited by petitioner and *amici* are not to the contrary. *Murdock* v. *Pennsylvania*, 319 U.S. 105, involved a local license tax imposed as a condition to door-to-door evangelizing. Here, no tax is imposed as a condition to any inherently religious activity. Although in *Sherbert* v. *Verner*, 374 U.S. 398, the Court refused to sanction a state's denial of unemployment compensation to sabbatarians who refused all Saturday employment, it nonetheless recognized (p. 403) that a compelling state interest could warrant an incidental burden on the free exercise

onstrated any coercion of religious belief or practice. Cf. *Board of Education* v. *Allen*, 392 U.S. 236, 248–249. It remains free to influence legislation or intervene in political campaigns, but simply must do so without the indirect support of the Treasury. To be sure, the Free Exercise Clause prohibits "governmental regulation of religious beliefs as such" (*Sherbert* v. *Verner*, 374 U.S. 398, 402) or interference with the dissemination of religious ideas (*Murdock* v. *Pennsylvania*, 319 U.S. 105). But it does not invalidate legislation enacted for a valid secular objective which imposes no burden on the exercise of religion. *Braunfeld* v. *Brown*, 366 U.S. 599; *Gallagher* v. *Crown Kosher Super Market*, 366 U.S. 617.[13]

(b) Petitioner also urges (Pet. 21–22) that the political limitations contravene a variety of other First Amendment rights, particularly the right of free speech. Alternatively, it suggests (Pet. 22–24) that the limitations are void for vagueness and overbreadth, and that the clause denying exempt status if a "substantial part" of an organization's activities consists of influencing legislation is unconstitutionally

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of religion. Section 501(c)(3), as construed by the court of appeals, is not inconsistent with that standard. See *Gillette* v. *United States*, 401 U.S. 437 at 461–462.

[13] The petitioner's followers always remain free to engage in the political arena. And the organization could engage in activities aimed at influencing legislation and still qualify as a "social welfare" organization under Section 501(c)(4) of the Code; it then would be exempt from income taxes but contributions to it would not be deductible. At the same time, it could conduct purely sacerdotal functions and charitable and educational activities through a separate organization which would be fully qualified for exempt status under Section 501(c)(3).

discriminatory in violation of the Due Process Clause of the Fifth Amendment. Petitioner did not regard these issues as sufficiently substantial to warrant mentioning them in the courts below, and we do not believe they should be considered for the first time in this Court. See, *e.g.*, *Adickes* v. *Kress & Co.*, 398 U.S. 144, 147; *Duignan* v. *United States*, 274 U.S. 195, 200.

In any event, this miscellany of constitutional arguments is without merit. Prior decisions of this Court would appear to foreclose any claim that the political provisos infringe First Amendment rights of free speech. See, *e.g.*, *Cammarano* v. *United States*, *supra*; cf. *United Public Workers* v. *Mitchell*, 330 U.S. 75; *Oklahoma* v. *Civil Service Commission*, 330 U.S. 127. As for the claims of vagueness and overbreadth, it is sufficient to note that the challenged clauses are not a sweeping prohibition of all political activities; they specify quite clearly the activities which will disqualify an organization. Moreover, permitted and proscribed activities are defined in detail in pertinent Treasury Regulations (see, *e.g.*, § 1.501(c)(3)–1(c)(3)), and the Commissioner has a rulings procedure to afford guidance with respect to situations not specifically covered by the Regulations. Any uncertainties are confined to a relatively few uncommon or borderline situations. *Grayned* v. *City of Rockford*, 408 U.S. 104. Finally, we note that this Court held in *Cammarano*, *supra*, that it is constitutionally permissible for the Code to preclude the deductibility of expenses incurred in political activity of the type at issue here. If deductibility of these expenses is not constitutionally

required, the Constitution can hardly be thought to mandate the more sweeping relief of complete immunity from taxation which petitioner seeks here.

4. Petitioner contends (Pet. 24–25) that the government violated its rights under the due process clause of the Fifth Amendment. But the fact that the Internal Revenue Service may not have challenged the tax exempt status of each and every organization similarly situated to petitioner does not amount to a denial of due process. The equal protection concepts of the Fifth Amendment only protect against invidious discrimination based upon a constitutionally suspect classification—*e.g.*, race, religion or politics. *Oyler* v. *Boles*, 368 U.S. 448, 456. As the court of appeals correctly concluded (Pet. App. 54a), no such discrimination is asserted, and none appears of record, in this case.

Similarly, any departures by the Service from its published procedures did not contravene the Fifth Amendment. See, *e.g.*, *Rosenberg* v. *Commissioner*, 450 F. 2d 529 (C.A. 10). Petitioner has not shown that it was deprived of an opportunity to be heard, or that it was in any way prejudiced by any deviations from published administrative procedures. To the contrary, petitioner was afforded a full opportunity at the administrative level to demonstrate, through its protests and four conferences with Service officials, that it qualified for exempt status. Thereafter, it had its full day in court, in no way inhibited by the manner in which the controversy had proceeded through administrative channels.

5. Finally, petitioner contends (Pet. 25–26) that the Commissioner abused his discretion in revoking the exemption with retroactive effect. It suffices to note that petitioner's operations in the area of influencing legislation were materially different from the alleged facts on which its original exemption ruling was based. Moreover, there had been a change in the applicable law; the absolute proscription on intervention in political campaigns was not enacted until 1954, two years after issuance of petitioner's original exemption ruling. These factors alone are sufficient to support a retroactive revocation. *Automobile Club of Michigan* v. *Commissioner,* 353 U.S. 180; Rev. Proc. 62–28, 1962–2 Cum. Bull. 496, 505. In any event, the retroactivity issue, turning as it does on a variety of factual considerations, is not worthy of further review.

CONCLUSION

The petition for a writ of certiorari should be denied.
Respectfully submitted.

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JUNE, 1973.

U.S. GOVERNMENT PRINTING OFFICE: 1973